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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/751,766      | 12/29/2000  | Max Allen Weaver     | 32887.203735        | 5781             |

23342 7590 06/19/2003

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EXAMINER

TUCKER, PHILIP C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1712

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DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

751766

Applicant(s)

WEAVER

Examiner

P. TUCKER

Group Art Unit

1712

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 4/14/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-26, 28-42, 52-58, 109-129 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 1-22, 29-34 is/are allowed.
- ☒ Claim(s) 23-25, 35, 38, 42, 109-111, 114, 117, 121, 122 is/are rejected.
- ☒ Claim(s) 26, 28, 36, 37, 39, 40, 52-58, 112, 113, 115, 116, 118-120, 123-129 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 23-25, 35, 38, 42, 109-111, 114, 117, 121 and 122 are rejected under 35 U.S.C. 102(b) as being anticipated by Langer et al (5243021).

Langer teaches a polyester which comprises acidic UV absorbing acid function containing monomers (see for example scheme 2 and examples). The UVA monomer may be at levels as high as 99.9%, and has a preferable point at 75% (see column 19, lines 41-52). Furthermore, the use of the term "about 325 nm" would still also be anticipated by the teaching of 320 nm by Langer ( see for example In re DeVaney 88 USPQ 97, In re Ayers 69 USPQ 109). The composition may contain a thermoplastic polymer (see for example column 12, lines 30-32), and the polymer may comprise other dicarboxylic acids (column 22, lines 4-18).

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3. Claims 26, 28, 36, 37, 39, 40, 52-58, 112, 113, 115, 116, 118-120 and 123-129 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 1-22 and 29-34 are allowable over the art of record.

5. Applicants arguments and amendment have been considered but are not deemed fully persuasive. Applicants amendment is deemed to distinguish over the EP and Krutak references. Applicants arguments are not deemed persuasive with respect to Langer. Langer clearly teaches that the UV A monomer may be present at levels up to 99.9%, and even at a preferred level of 75%. Thus contrary to applicants arguments the percentage levels, or specifying "consisting essentially of" does not distinguish over the teachings of Langer.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2825  
June 17, 2003

  
**PHILIP C. TUCKER**  
**ART UNIT 1712**